

**Introduced by Senator Baca**

February 23, 1999

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An act to amend Sections 20303, 20894, and 21754 of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 583, as introduced, Baca. Public employees' retirement: supplemental defined benefit plans.

The Public Employees' Retirement Law provides that a person receiving service credit in another publicly funded retirement system may not be a member of the Public Employees' Retirement System as to that service and prohibits a person from receiving service credit for the same service in 2 publicly funded retirement systems. That law also provides, however, that participation in a deferred compensation plan or money purchase pension plan and trust, as specified, shall not be deemed membership in another publicly funded retirement system or preclude concurrent participation and service credit in the PERS plan and those specified other plans.

This bill would additionally provide that participation in a supplemental defined benefit plan maintained by the employer that meets specified criteria shall not be deemed membership in another publicly funded retirement system or preclude concurrent participation and service credit in the PERS defined benefit plan and that plan if specified conditions exist.

Existing law provides that if a member's combined benefits under the PERS plan and another benefit plan maintained by

the employer exceed limits specified in federal law, the benefits payable under the PERS plan shall be reduced.

This bill would instead provide that if a member's combined benefits under the PERS plan and other defined benefit plans maintained by the employer exceed federal limits, the benefits payable under the other defined benefit plan shall be reduced.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 20303 of the Government Code  
2 is amended to read:

3 20303. (a) Persons who are members of any other  
4 retirement or pension system supported wholly or in part  
5 by funds of the United States government, any state  
6 government or political subdivision thereof and who are  
7 receiving credit in the other system for service are, as to  
8 that service, excluded from this system.

9 (b) (1) For the purpose of this section *only*, persons  
10 who ~~merely~~ are receiving pensions or retirement  
11 allowances, or other payments, from any source  
12 whatever, on account of service rendered to an employer  
13 other than the state and while they were not in state  
14 service, are not, because of that receipt, members of any  
15 other retirement or pension system.

16 (2) For the purposes of this section *only*, persons who  
17 ~~merely~~ participate in a deferred compensation plan  
18 established pursuant to Chapter 4 (commencing with  
19 Section 19993) of Part 2.6 of Division 5 of Title 2 or  
20 established pursuant to Article 1.1 (commencing with  
21 Section 53212) of Chapter 2 of Part 1 of Division 2 of Title  
22 5, are not, because of that participation, members of any  
23 other retirement or pension system.

24 (3) For the purposes of this section *only*, persons who  
25 participate in a money purchase pension plan and trust  
26 that meets the requirements of Section 401(a) of Title 26  
27 of the United States Code are not, because of that  
28 participation, members of any other retirement or



pension system, so long as the contracting agency has received a ruling from the Internal Revenue Service stating that the money purchase pension plan and trust qualifies under Section 401(a) and furnishes proof thereof upon request by the board.

*(4) For the purposes of this section only, persons who participate in a supplemental defined benefit plan maintained by their employer that meet the requirements of Section 401(a) of Title 26 of the United States Code are not, because of that participation, members of another retirement or pension system, provided that all of the following conditions exist:*

*(A) The defined benefit plan provided under this part has been designated as the employer's primary plan for the person.*

*(B) The employer has received a ruling from the Internal Revenue Service stating that the supplemental defined benefit plan qualifies under Section 401(a) of Title 26 of the United States Code, and has furnished proof thereof upon request by the board.*

*(C) The person's participation in the supplemental defined benefit plan does not, in any way, interfere with the person's rights to membership in the defined benefit plan, or any benefit provided, under this part.*

SEC. 2. Section 20894 of the Government Code is amended to read:

20894. (a) A person shall not receive credit for the same service in two retirement systems supported wholly or in part by public funds under any circumstance. ~~Nothing~~

*(b) Nothing* in this section shall preclude concurrent participation and credit for service in a public retirement system and in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) of Part 2.6 or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5, a tax-deferred retirement plan ~~which~~ *that* meets the requirements of Section 401(k) of Title 26 of the United States Code, or a money purchase pension plan and trust

1 ~~which~~ that meets the requirements of Section 401(a) of  
2 Title 26 of the United States Code.

3 (c) *Nothing in this section shall preclude concurrent*  
4 *participation and credit for service in the defined benefit*  
5 *plan provided under this part and in a supplemental*  
6 *defined benefit plan maintained by the employer that*  
7 *meets the requirements of Section 401(a) of Title 26 of*  
8 *the United States Code, provided all of the following*  
9 *conditions exist:*

10 (1) *The defined benefit plan provided under this part*  
11 *has been designated as the employer's primary plan for*  
12 *the person.*

13 (2) *The employer has received a ruling from the*  
14 *Internal Revenue Service stating that the supplemental*  
15 *defined benefit plan qualifies under Section 401(a) of*  
16 *Title 26 of the United States Code, and has furnished proof*  
17 *thereof upon request by the board.*

18 (3) *The person's participation in the supplemental*  
19 *defined benefit plan does not, in any way, interfere with*  
20 *the person's rights to membership in the defined benefit*  
21 *plan, or any benefit provided, under this part.*

22 SEC. 3. Section 21754 of the Government Code is  
23 amended to read:

24 21754. In addition to the benefit limitations specified  
25 in this part, if a member participates in other defined  
26 benefit plans maintained by the employer, to the extent  
27 the aggregation of benefits payable under those plans and  
28 pursuant to Part 3 (commencing with Section 20000) are  
29 subject to and exceed the limits prescribed by Section 415  
30 of Title 26 of the United States Code, the benefits payable  
31 pursuant to ~~Part 3~~ *the other defined benefit plans*  
32 *maintained by the employer* shall be reduced, but not  
33 below zero, to the extent necessary to satisfy Section 415,  
34 before adjustments ~~under any other plans~~ *to the benefits*  
35 *provided under Part 3* are made. Nothing in this section  
36 shall limit a member's entitlement to replacement  
37 benefits as provided by Section 21757.

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